

## **Problems in Polish-English Translation of Testaments and Succession-Related Documents. A Case Study**

### **Problemy przekładu polsko-angielskiego testamentów i dokumentów prawa spadkowego. Studium przypadku**

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#### **Abstract**

This paper deals with the analysis of common language and translation mistakes and errors made in translations of Polish testaments into English. This article presents a selection of examples from the translation assignments of students of the postgraduate School of Translation, Interpreting and Foreign Languages at Adam Mickiewicz University. The author presents incorrect translations into English and explains why they are incorrect. The examples are illustrated with the author's suggestions of correct equivalents. There is also a short description of the spotted types of language and translation errors and mistakes. The identified problems result from the translation method applied (which is not always properly chosen), syntactic and grammatical differences between Polish and English, as well as culturally-conditioned differences in Polish and English legal realities.

#### **1. Introduction**

This paper has been inspired by the analysis of translation assignments done by students of the Poznań School of Translation, Interpreting and Foreign Languages [Szkoła Tłumaczy i Języków Obcych], Adam Mickiewicz University. The School offers a two-year postgraduate course in Polish-English and English-Polish translation. The course encompasses the course in written translation during the first and second year of studies. The material used has been composed of written assignments done by second year students. Those students cover the course in LSP translation including economics, law, logistics, accounting, banking and business.

## **2. The scope of the research**

The author analyzed 34 written translation assignments of students submitted by e-mail. The task was to translate a testament from Polish into English. The papers were gathered in the following academic years: (i) 2003-2004, (ii) 2004-2005, and (iii) 2005-2006. Out of 34 students only 4 graduated from non-philological studies that is: (i) accounting, (ii) law, (iii) European studies. The other students graduated from language studies mainly English studies, Colleges for Teachers of English, Applied Linguistics, Ethnolinguistics and linguistics-related studies. The conclusions concerning the problems connected with the translation of Polish testaments into English are a result of problems revealed during translation assignments done in a classroom and the error analysis done in the classroom after teacher's corrections. Only the most common mistakes and errors have been listed in this paper, that is occurring in at least 3 assignments.

## **3. The method used**

Each written assignment has been corrected. The corrections included the following: (i) grammatical, (ii) stylistic (mainly mixing registers), (iii) terminological, (iv) phraseological (with word collocations or the so-called word combinations), and (v) spelling and punctuation related problems.

## **4. Polish testaments and succession-related documents**

A testament is a document in which the testator is disposing of his estate (real and personal property) in the event of his death. In Poland we may distinguish three main types of testaments: (i) holographic testaments (handwritten testaments), (ii) allographic testaments and (iii) testaments in the form of a notarial deed. The main linguistic difference occurring between those types of testaments is the fact that holograph testaments are written in the first person singular and the language used is usually a quasi-legal language unless they are written by a lawyer or a person using testament samples. On the other hand, the testaments executed in the allograph form and in the form of a notarial deed are written in the third person singular. Notarial testaments are always formulated in legal

language, whereas allograph testaments may be either written in legal language or quasi-legal language.

Apart from testaments, one of the most typical documents translated from Polish into English is called *Wniosek o stwierdzenie nabycia spadku* (*Petition to have the acquisition of the estate ascertained*).

#### **4.1. Common errors**

The errors presented below are the so-called common errors that is errors which appeared in the students' assignments more than once. The punctuation and spelling errors have not been taken into consideration here as in general they did not depend on the genre of the text.

##### **Grammatical errors**

Grammatical problems usually include inflexion errors (e.g. incorrect stem or desinence) and incorrect syntax (e.g. government, concord, prepositions, or word order). Among the most typical errors which may be found in Polish-English translations of testaments into Polish are (i) problems with prepositions, (ii) reported speech, (iii) sequence of tenses, (iv) causative have, (v) articles, (vi) tenses (especially mixing past simple with present perfect). The majority of those errors result from the interference of Polish into English.

##### **Example 1**

We read in the original:

Syna Stefana Adamowicza zobowiązuje do urządzenia mu pogrzebu i postawieniu mu nagrobka według zwyczajów miejscowych.

The common error was:

The son, Stefan Adamowicz, shall arrange for the Testator's funeral and **shall erect a tombstone** according to the local customs.

Students as a rule forgot to apply the typical grammatical structure used in English, that is to say *causative have*, to express that someone is supposed to employ someone else to do something for him. Thus, the proper version should be:

The son, Stefan Adamowicz, shall arrange for the Testator's funeral and **shall have a tombstone erected** according to the local customs.

This error results from the fact that in Polish language the shared knowledge allows Polish speakers to deduce that the son is not expected to erect a tombstone

himself but he is to pay for the erection of the tombstone by a hired specialist. The surface structure of the utterance, however, does not reveal that meaning.

### Example 2

The second group of problems is connected with prepositions.

Marian Adamowicz powołuje do spadku dzieci swoje: ...

Students' version was:

Marian Adamowicz calls **in** succession his children: ...

should be:

Marian Adamowicz calls **to** succession his children: ...

### Example 3

Another problem was connected with the same syntagm:

Marian Adamowicz powołuje do spadku dzieci swoje: a) Janinę Cegielkowską, zam. w Częstochowie przy ulicy Kościelnej nr 5 m. 2, w  $\frac{1}{4}$  (jednej czwartej części i b) Stefana Adamowicza, zam. w Krakowie przy ulicy Wyspiańskiego nr 6 m. 2, w  $\frac{3}{4}$  (trzech czwartych) częściach, zobowiązując tego ostatniego do wypłacenia pozostałym jego dzieciom: Zofii Jankowskiej, zam. w Warszawie przy ulicy Anielewicza 5 m. 4, i Michałowi Adamowiczowi, zam. w Poznaniu przy ulicy Długiej nr 8 m. 20, po 50.000 zł (pięćdziesiąt tysięcy).

Students' version was:

Marian Adamowicz calls to succession his children (i) Janina Cegielkowska residing at ul. Kościelna 5 flat 2 **in** one fourth part and (ii) Stefan Adamowicy residing at ul. Wyspiańskiego 6 flat 2 **in** three fourth **part**, obliging the latter to pay to his other children, that is Zofia Jankowska, residing at ul. Anielewicza 5 flat 4 in Warsaw and Michał Adamowicz, residing at ul. Długa 8 flat 20 fifty thousand zlotys each.

Instead of

Marian Adamowicz calls to succession his children (i) Janina Cegielkowska residing at ul. Kościelna 5 flat 2 **to** one fourth part and (ii) Stefan Adamowicy residing at ul. Wyspiańskiego 6 flat 2 **to** three fourth **parts**, obliging the latter to pay to his other children, that is Zofia Jankowska, residing at ul. Anielewicza 5 flat 4 in Warsaw and Michał Adamowicz, residing at ul. Długa 8 flat 20 fifty thousand zlotys each.

Two errors can be spotted in the above example. One is prepositional one (*call to succession*) and the other one is connected with putting fractions in words (*one fourth part* but *two fourth parts*). The second problem is related with the interference of Polish (a calque of the Polish noun in singular)

### Example 4

In the original we read:

Gdyby osoby powołane do spadku albo jedna z nich nie chciały lub nie mogły być spadkobiercami, do spadku lub jego części na ich miejsce powołuje wnuka Feliksa Nowaka, zam. w Krakowie przy ulicy Nowotki 6 m.1.

The student's version was:

If any person or persons called to succession **would not want** or could not be successors, the Testator calls to succession or its part in their place and stead his grandson, Feliks Nowak, residing at ul. Nowotki 6 flat 1 in Kraków.

The correct version should be:

If any person or persons called to succession **did not want** or could not be successors, the Testator calls to succession or its part in their place and stead his grandson, Feliks Nowak, residing at ul. Nowotki 6 flat 1 in Kraków.

In this case we have a second conditional sentence mixed with the zero conditional sentence, that is to say the improbable but still possible condition (that is renouncing succession) and the decision of the testator. The problem is probably a result of the fact that the hypothetical sentences in which in Polish we encounter a particle *by*, in English we often use *would*. However, in this case it is not a typical hypothetical sentence, but a conditional sentence.

#### Example 5

Another grammatical error is connected with the usage of articles. Articles, in general, turn out to be very troublesome for Poles. In the case of testaments the problem was connected with articles preceding the noun describing the function after the verb *powoływać* 'appoint'.

In the original we read:

Na wykonawcę tego testamentu powołuje żonę swoją Bożenę Adamowicz, a w razie jej śmierci – syna Stefana Adamowicza.

Students' version was:

The testator appoints his wife Bożena Adamowicz an executrix of this testament, and in the event of her death he appoints his son, Stefan Adamowicz, an executor.

instead of

The testator appoints his wife Bożena Adamowicz executrix of this testament, and in the event of her death he appoints his son, Stefan Adamowicz, executor.

#### **Terminological problems**

The majority of terminological problems result from the fact that translators do not know the terminology typical of a given language for special purposes and supply the terminology known from a colloquial language or fail to understand the source text as a result of their ignorance. The moment the translator realizes that he fails to understand the text he should seek the definition of the term which would enable him grasping the meaning of the message. However, many

translation trainees fail to do so and instead they resort to bilingual dictionaries and chose one of the suggested words at random. The result may be very far-reaching in some cases if the meaning of the message is changed significantly. If the meaning may still be deduced from the context the consequences are not so severe.

#### Example 6

Terminological problems were mostly connected with mixing the meaning of words spelled in a similar way in colloquial and legal languages e.g. the Polish noun *rozrządzenie* [disposition] was understood as *rozporządzenie* [instructions, order] thus in the students version we may read:

Wartość tego rozrządzenia szacuje na 200.000 zł (dwieście tysięcy).

Students' version was:

The value of this instruction is estimated at two hundred thousand Polish zlotys (PLN 200,000).

Instead of

The value of this disposition is estimated at two hundred thousand Polish zlotys (PLN 200,000).

#### Example 7

The next set of errors was connected with the fact that the gender of nouns in Polish and English legal language is not always correspondent. In Polish language of testaments there is only the masculine used for the following nouns: *wykonawca* [executor], *zarządca masy spadku* [administrator], *spadkodawca* [testator]. However, in English a male is appointed *executor/administrator/testator*, but a female is appointed *executrix/administratrix/testatrix*. The main problem spotted in students' assignments was the following translation:

The testator appoints his wife Bożena Adamowicz **executor** of this testament, and in the event of her death he appoints his son, Stefan Adamowicz, executor.

Instead of

The testator appoints his wife Bożena Adamowicz **executrix** of this testament, and in the event of her death he appoints his son, Stefan Adamowicz, executor.

#### Example 8

One of the most serious problems is connected with words and phrases the meaning of which is not defined. Such words and syntagms are understood intuitively and if a translator is now well acquainted with legal language, he may easily make a mistake. One of such syntagms is *zwyczaj lokalny* which was translated by students as *local tradition* instead of *local custom*.

Example 9

Students also often mixed English terms: *proper conduct* and *morals*. *Proper conduct* means a mode or standard of personal behavior which is usually based on moral principles. The equivalent for *proper conduct* are Polish terms: *właściwe/stosowne zachowanie, właściwe/stosowne postępowanie*. *Morals* means the moral practices of an individual, his habits of life or modes of conduct. The equivalent for *morals* are Polish terms: *morale, moralność*.

Example 10

The noun *nagrobek* has also turned out to be troublesome. In Polish the noun means the stone put on a grave to commemorate the deceased. The English equivalent is a *tombstone* or a *gravestone*. However students used the noun *tomb* [*grobowiec*] which in turn means a structure erected at the graveyards in the form of a crypt.

Example 11

*Convalescence* is the process of gradual recovery of health and strength after a disease or the time which passes between the subsidence of a disease and complete restoration to health. It is also defined in medicine as the stage of recovery from an illness, operation, or injury. Whereas *recuperation* is the process of recovery, restoration to health or strength and mental and emotional vigor. Both terms are translated into Polish as *rekonwalescencja, powrót do zdrowia*. The testator mentions in the testament that *rekonwalescencja* was a result of his being operated on. Thus the correct term in this context would be *convalescence* rather than *recuperation* or *regaining health*.

Example 12

The syntagm *z domu* + surname was usually translated as *family name*. Nearly none of the students used the analogous French borrowing typical of English testaments that is to say: *née* for females and *né* for males.

#### Example 13

Two often mixed terms are: *property* and *estate*. *Property* is rather the equivalent for Polish term *mienie*, whereas *estate* is the equivalent of the Polish term *masa spadku* or *cały majątek spadkodawcy* in succession related documents.

#### Example 14

In the part of the notarial deed in which the particulars of the person appearing before a notary are given (in Polish this part is called *komparycja*) there is always the following formulaic sentence used:

Tożsamość stawającego ustalono na podstawie okazanego dowodu osobistego, którego seria i numer zostały wymienione przy nazwisku.

which is usually translated in the following manner:

The identity of the appearing person **was established** on the basis of the identity document, the series and number of which have been given next to the name of the Testator.

The problem is that the collocation *ustalić tożsamość* in Polish may refer to two situations: (i) the establishment of the identity in the case of the deceased person and (ii) the verification of the identity on the basis of the identity documents or consultations with witnesses. Thus, the sentence should be translated in the following way:

The identity of the appearing person **was verified** on the basis of the identity document, the series and number of which have been given next to the name of the Testator.

### **Phraseological errors**

Phraseological errors result from the change of the composition of a phraseological unit. The change may sometimes lead to the change of meaning. It is usually assumed that “creating collocations is an instinctive act in a native language” (Dzierżanowska 1988: 32). However, it does not seem to work that way in a foreign language or in languages for special purposes (LSP).

#### Example 14

The collocation *postawić nagrobek* was often translated in the following way: *to establish a tombstone* or *to set a tombstone* instead of *to erect a tombstone*. The problem most probably resulted from the fact that instead of using dictionaries of word collocations students referred to bilingual dictionaries and checked the verb: *stawiać, postawić, ustawić, or instalować*.

#### Example 15

The Polish noun *paragraf* was translated as *item* which is rather the equivalent for the noun *pozycja* in reference to statutory instruments instead of a source-language oriented equivalent for *paragraph* or a target-language oriented equivalent for *sub-section*.

#### Example 16

Two Polish syntagms (i) *w pełni władz umysłowych* and (ii) *w pełni świadom (swoich czynów)* are equivalents of an English synonymous string *being of sound mind and memory*. However, students translated the phrase literally and created a syntagm: *with full awareness*. In this particular case the strategy of providing source-language oriented equivalents was not justifiable because if in the target language there is a term with the same meaning and having a long-lasting tradition (which is understood here as a long-lasting tradition of interpretation/construction), the translator should employ it. The creation of neologisms is justified only when the existing term differs in its meaning from the term used in the original text, or if there is no equivalent for the term at all.

### **Stylistic errors**

Stylistic problems are usually connected with using inappropriate style (stylistic inadequacy). In the case of testaments which are formulated in legal language or quasi-legal language, the translation of this specific genre of texts requires the usage of the proper stylistic means. If translators do not know the difference between colloquial, quasi-legal and legal languages, they often subconsciously make numerous stylistic errors.

#### Example 17

Many students had problems concerning Polish sentences with the subject of the sentence hidden. In Polish it is possible to omit the subject of the sentence. In the testament in question which was in the form of the notarial deed there are numerous verbs in third person singular specifying the acts done by the testator, e.g. *powołuje* [appoints], *szacuje* [estimates], *zobowiązuje* [obliges]. In English it is necessary to supply the subject in sentences. What is more, traditionally in texts formulated in languages for special purposes such as testaments, contracts, petitions, judgments, etc. the noun or the noun and the name are used instead of personal pronouns. However, many students trying to avoid terminological repetitions, which is considered a prerequisite of a good style in Poland in essays, used a personal pronoun (that is *he*) instead of the noun *the testator*.

#### Example 18

The sentence *oświadczam, że jestem w pełni władz umysłowych* was translated as *I hereby express being of sound mind and memory* which was not correct. The correct version should be: *I hereby declare being of sound mind and memory*.

#### Example 19

The Polish verb *oświadczać* in many English legal texts has an equivalent to *represent*. However, the verb to *represent* is associated with the Polish verb *reprezentować*. The verbs which are used in the colloquial language to express the meaning of *oświadczać* are to *state*, to *declare*, to *assert*, to *express*. Thus, in many translations instead of to *represent* we may encounter to *declare*.

### **5. Concluding remarks**

To sum up, it should be stressed that the errors and mistakes which in some cases lead to the low quality of translations in the case of students are conditioned by:

- (i) failure to observe the translation procedure,
- (ii) ignoring professional training,
- (iii) lack of financial liability in the case of students' assignments,
- (iv) the differences between English and Polish legal realities,

- (v) the fact that the comparison of parallel documents is much more time consuming than using bilingual dictionaries,
- (vi) the habit of overusing bilingual dictionaries,
- (vii) the habit of over-trusting bilingual dictionaries,
- (viii) the fact that students resort more often to general-English dictionaries than to the LSP dictionaries,
- (ix) the fact that there is often no proofreading done before submitting the assignment to the teacher,
- (x) not paying enough attention to syntactic differences between specific pairs of languages (in this particular case Polish and English), which is a direct consequence of the usage of textbooks published for the worldwide community of English learners instead of using books adapted to particular needs.

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